IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE S.SIRI JAGAN

FRIDAY, THE 22ND JUNE 2007 / 1ST ASHADHA 1929

WP(C).No. 16975 of 2007(U)

PETITIONER:

C.P.K.MUHAMMED, S/O.MAYAN,
AGED 61 YEARS,BUSINESS, KUTHUPARAMBA
AMSOM AND NARAVOOR DESOM,P.O.KUTHUPARAMBA ,
THALASSERY TALUK.

BY ADV. SRI.K.V.PAVITHRAN

RESPONDENTS:

1. STATE OF KERALA REPRESENTED BY THE SECRETARY, REVENUE DEPARTMENT, THIRUVANANTHAPURAM.

2. DISTRICT COLLECTOR, KANNUR DISTRICT, P.O.KANNUR.

3. THE TAHSILDAR, THALASSERY TALUK, P.O.THALASSERY.

4. THE VILLAGE OFFICER, KUTHUPARAMBA.

BY G.P. SHRI.I.V.PRAMOD.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 22/06/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

S.SIRI JAGAN, J.

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W.P.(C).No.16975 of 2007

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Dated this the 22nd day of June, 2007

J U D G M E N T

The petitioner challenges Ext.P2 notice by which he has been directed to vacate the premises mentioned therein, within three days from the date of receipt of the notice on the ground that the petitioner is in unauthorised occupation of the Government land. Petitioner's contention is that Ext.P2 has not been preceded by any notice or hearing and therefore, is violative of the principles of natural justice as well as the provisions of the Kerala Land Conservancy Act and Rules.

2. I have heard the learned counsel for the petitioner as also the learned Government Pleader.

3. From Ext.P2 itself it is clear that the same has not been preceded by any notice or hearing, since the same does not mention any previous notice or hearing therein. The same does not also state any reason as to why emergency

provisions as per the Land Conservancy Act should be invoked in this particular case. That being so, Ext.P2 has been issued in violation of natural justice and, the provisions of the Kerala Land Conservancy Act and Rules. In the above circumstances, I dispose of this writ petition within the following directions:

The 3rd respondent shall treat Ext.P2 as a notice issued under the Kerala Land Conservancy Act and Rules. The petitioner shall file his objections to the same within two weeks from today. On receipt of the same, the third respondent shall consider the objections in the light of the evidence and arguments at the time of hearing and pass a speaking order dealing with each and every contention of the petitioner. Till such orders are passed further proceedings for eviction of the petitioner from the property in question shall be kept in abeyance.

Writ petition is disposed of as above.

Sd/-

sdk+ S.SIRI JAGAN, JUDGE

///True copy///

P.A. to Judge.